

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED]
SRC 05 073 52216

Office: TEXAS SERVICE CENTER Date: SEP 19 2006

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

✓ Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The decision of the director will be withdrawn and the petition will be remanded for further action and consideration.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner is a postdoctoral research associate at the University of Georgia. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

The director's denial notice contains no specific discussion of the merits or deficits of this petitioner's claim of eligibility. The notice reads, in part:

The self-petitioner has submitted both initial filing evidence and additional post filing evidence.

Additional post filing evidence is subject to *Matter of Izummi*.

Representation has provided a brief or statement.

Representation's statements are subject to *Matter of Obaigbena* and *Matter of Ramirez-Sanchez*.

The decision contains no description or discussion of the evidence or of counsel's "brief or statement"; the director simply acknowledged their submission. The decision offers no explanation of the significance of the case law cited in the above passage.

The director's decision contains no information about the petitioner's claims except for the statement that the petitioner is a "research associate." The stated grounds for denial are so generic that the petitioner has not had a meaningful opportunity to offer a substantive appeal. The wording of the decision offers no obvious indication that the author of the decision has examined the record in any detail.

Therefore, this matter will be remanded. The director should consider all of the evidence now in the record, including new exhibits submitted on appeal. If the director believes that the evidence of record does not support approval of the petition, the director may request any additional evidence deemed warranted and should allow the petitioner to submit additional evidence in support of its position within a reasonable period of time. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision which, if adverse to the petitioner, is to be certified to the Administrative Appeals Office for review.